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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
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03/31/2004

Brant L. Candelore

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10/29/2008

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EXAMINER

DOAN, TRANG T

ART UNIT

PAPER NUMBER

2431

MAIL DATE

DELIVERY MODE

10/29/2008

PAPER

Please find below and/or attached an Office communication concerning this application or proceeding.

The time period for reply, if any, is set in the attached communication.

Office Action Summary	Application No. 10/815,371	Applicant(s) CANDELORE, BRANT L.	
	Examiner TRANG DOAN	Art Unit 2431	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 23 July 2008.
- 2a) ☒ This action is **FINAL**. 2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-15 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 1-15 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☒ The drawing(s) filed on 31 March 2004 is/are: a) ☒ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
 2. ☐ Certified copies of the priority documents have been received in Application No. _____.
 3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- | | |
|--|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input type="checkbox"/> Interview Summary (PTO-413) |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | Paper No(s)/Mail Date. _____ |
| 3) <input checked="" type="checkbox"/> Information Disclosure Statement(s) (PTO/SB/08) | 5) <input type="checkbox"/> Notice of Informal Patent Application |
| Paper No(s)/Mail Date <u>07/23/2008</u> . | 6) <input type="checkbox"/> Other: _____ |

DETAILED ACTION

1. This action is in response to the amendment filed on 07/23/2008.
2. Claims 1 and 12 have been amended.
3. Claims 1-15 are pending for consideration.

Information Disclosure Statement

4. The information disclosure statements submitted on 07/23/2008 are being considered by the examiner.

Response to Arguments

5. Applicant's argument with respect to the 35 U.S.C. 112, second paragraph, rejection has been fully considered in view of the amendment filed 07/23/2008, which has been made in record, and the 35 U.S.C. 112, second paragraph, rejection has been withdrawn.
6. Applicant's arguments filed on 07/23/2008 have been fully considered but they are not persuasive.

Regarding page 7 of the Remarks, Applicant argues that Carny does not describe any operation packets where the second packet includes a secondary packet identifier that is used to indicate that the second packet include data duplicative of the data contained in the payload of a first packet and to cause the digital device to disregard the data contained in the first packet. Examiner respectfully disagrees.

Carny does describe operation packets where the second packet includes a secondary

Art Unit: 2431

packet identifier that is used to indicate that the second packet include data duplicative of the data contained in the payload of a first packet and to cause the digital device to disregard the data contained in the first packet (Carny: See figure 1 and paragraphs 0008, 0011: duplicating the at least one selected segment or segments, thereby creating a plurality of copies of each segment, paragraph 0053: removed from the original content and selected for encryption, and paragraph 0059).

Examiner notes, Examiner has cited particular columns and line numbers in the references applied to the claims above for the convenience of the applicant. Although the specified citations are representative of the teachings of the art and are applied to specific limitations within the individual claim, other passages and figures may apply as well. It is respectfully requested from the applicant in preparing responses, to fully consider the references in entirety as potentially teaching all or part of the claimed invention, as well as the context of the passage as taught by the prior art or disclosed by the Examiner.

Claim Rejections - 35 USC § 102

7. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(e) the invention was described in (1) an application for patent, published under section 122(b), by another filed in the United States before the invention by the applicant for patent or (2) a patent granted on an application for patent by another filed in the United States before the invention by the applicant for patent, except that an international application filed under the treaty defined in section 351(a) shall have the effects for purposes of this subsection of an application filed in the United States only if the international application designated the United States and was published under Article 21(2) of such treaty in the English language.

8. Claims 1-4 and 6-15 are rejected under 35 U.S.C. 102(e) as being anticipated by Carny et al. (US 2002/0150239) (hereinafter Carny).

Regarding claim 1, Carny discloses a method for providing content from a head-end to a digital device, comprising: producing an Internet Protocol (IP) datagram including an IP header and a body segmented including a plurality of packets in a Moving Picture Experts Group (MPEG) format including a first packet and a second packet preceding the first packet (Carny: paragraphs 0052 and 0059), the first packet including a first packet identifier to indicate a type of data stored in a payload of the first packet and a second packet including a secondary packet identifier to indicate that the second packet includes data duplicative of the data contained in the payload of the first packet and to cause the digital device to discard the data content contained in the first packet (Carny: paragraphs 0052, 0059 and 0062); and transmitting the IP datagram from the head-end (Carny: paragraph 0006).

Regarding claim 2, Carny further discloses wherein the first packet identifier is a unique value to indicate whether the payload of the first packet includes video, audio or data (Carny: paragraphs 0060 and 0062).

Regarding claim 3, Carny further discloses wherein the IP header comprises a version field to identify an IP version number, a length field to indicate either a length of the IP datagram or a length of the IP header, a source address field to include an IP address of the head-end and a destination address field to include an IP address of the digital device (Carny: paragraphs 0060 and 0062).

Regarding claim 4, Carny further discloses wherein a header of the first packet comprises the first packet identifier (Carny: paragraph 0049).

Regarding claim 6, this claim has limitations that is similar to those of claim 1, thus it is rejected with the same rationale applied against claim 1 above.

Regarding claim 7, Carny further discloses wherein the second packet precedes the first packet (Carny: paragraph 0008).

Regarding claim 8, Carny further discloses wherein content stored in the payload of the first packet is video encrypted using a first key and the duplicative content in the payload of the second packet is the video encrypted using a second key different than the first key (Carny: See figure 5 and paragraphs 0008, 0053 and 0059).

Regarding claim 9, Carny further discloses wherein content stored in the payload of the first packet is video encrypted using a first encryption algorithm and the duplicative content in the payload of the second packet is the video encrypted using a second encryption algorithm different than the first encryption algorithm (Carny: See figure 5 and paragraphs 0008, 0053 and 0059).

Regarding claim 10, Carny further discloses wherein content stored in the payload of the first packet is audio encrypted using a first key and the duplicative content in the payload of the second packet is the audio encrypted using a second key different than the first key (Carny: See figure 5 and paragraphs 0008, 0053 and 0059).

Regarding claim 11, this claim has limitations that is similar to those of claim 1, thus it is rejected with the same rationale applied against claim 1 above.

Regarding claim 12, Carny further discloses wherein the third program block disregards the content contained in the payload of the first packet by discarding the content contained in the payload of the first packet and thereby refraining from recovering the payload of the first packet when the second packet identifier of the second packet preceding the first packet is set to a predetermined value (Carny: See figure 5 and paragraphs 0008, 0053 and 0059).

Regarding claim 13, Carny further discloses wherein the duplicative content contained in the payload of the second packet is video encrypted using a first key and the content in the payload of the first packet is the video encrypted using a second key different than the first key (Carny: See figure 5 and paragraphs 0008, 0053 and 0059).

Regarding claim 14, Carny further discloses a fourth program block to provide the duplicative content to a descrambler situated within a digital device (Carny: See figure 5 and paragraphs 0008, 0052-0053, 0055-0056 and 0059).

Regarding claim 15, this claim has limitations that is similar to those of claim 1, thus it is rejected with the same rationale applied against claim 1 above.

Claim Rejections - 35 USC § 103

9. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

Art Unit: 2431

10. Claim 5 is rejected under 35 U.S.C. 103(a) as being unpatentable over Carny in view of Monta et al. (US 7039048) (hereinafter Monta).

Regarding claim 5, Carny does not explicitly disclose wherein prior to producing the IP datagram, the method further comprising: determining whether the destination address field of the IP header is loaded with a multicast IP address, if video is to be transmitted, each of the plurality of packets exclusively comprises a PID having a first value; and if audio is to be transmitted, each of the plurality of packets exclusively comprises a PID having a second value differing from the first value.

However, Monta, in an analogous environment, discloses wherein prior to producing the IP datagram, the method further comprising: determining whether the destination address field of the IP header is loaded with a multicast IP address, if video is to be transmitted, each of the plurality of packets exclusively comprises a PID having a first value; and if audio is to be transmitted, each of the plurality of packets exclusively comprises a PID having a second value differing from the first value (Monta: column 6 lines 8-38). Therefore, it would have been obvious to a person of ordinary skill in the art, at the time the invention was made, to incorporate the teachings of Monta into the system of Carny to have lower cost to build and maintain and consumes 10 times less rack space. Finally, the system can be easily scaled up or down in size and it is compatible with new markets for broadband delivery of digital data in IP packet format (Monta: column 2 lines 27-31).

Conclusion

11. **THIS ACTION IS MADE FINAL.** Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire THREE MONTHS from the mailing date of this action. In the event a first reply is filed within TWO MONTHS of the mailing date of this final action and the advisory action is not mailed until after the end of the THREE-MONTH shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the mailing date of this final action.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to TRANG DOAN whose telephone number is (571)272-0740. The examiner can normally be reached on Monday-Friday.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Ayaz Sheikh can be reached on (571) 272-3795. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Art Unit: 2431

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

/Trang Doan/

Examiner, Art Unit 2431

/Syed Zia/

Primary Examiner, Art Unit 2431